

September 17, 2008

MEMORANDUM TO: David M. Spooner
Assistant Secretary
for Import Administration

FROM: Stephen J. Claeys
Deputy Assistant Secretary
for Import Administration

SUBJECT: Issues and Decision Memorandum for the Final Determination of
Sales at Less than Fair Value: Polyethylene Terephthalate Film,
Sheet, and Strip from the People's Republic of China

SUMMARY:

We have analyzed the case brief submitted by the participating mandatory respondent, DuPont Teijin Films China Ltd., along with its affiliates DuPont Teijin Hongji Films Ningbo Co., Ltd., and DuPont-Hongji Films Foshan Co., Ltd., (collectively, "DuPont Group") in the investigation of sales at less than fair value of polyethylene terephthalate film, sheet, and strip ("PET Film") from the People's Republic of China ("PRC"). We did not receive case briefs or rebuttal briefs from any other interested parties, including petitioners.¹ The period of investigation ("POI") is January 1, 2007, through June 30, 2007. On May 5, 2008, the Department of Commerce ("Department") published the preliminary determination of sales at less than fair value of PET Film from the PRC. See Polyethylene Terephthalate Film, Sheet, and Strip from the People's Republic of China: Preliminary Determination of Sales at Less Than Fair Value, 73 FR 24552 (May 5, 2008) ("PET Film Prelim"). We recommend that you approve the positions described in the "Discussion of the Issues" section of this Issues and Decision Memorandum. Below is a complete list of issues for which we have received comments:

COMMENTS:

Comment 1: Surrogate Value for PET Chips
Comment 2: Surrogate Value for Paper Cores
Comment 3: Revisions to Financial Ratio Calculations

¹ Petitioners include Dupont Teijin Films, Mitsubishi Polyester Film Inc., SKC Inc., and Toray Plastics (America) Inc.

DISCUSSION OF THE ISSUES

Comment 1: Surrogate Value for PET Chips

In the preliminary determination, the Department used World Trade Atlas (“WTA”) data for Indian Harmonized Tariff Schedule (“HTS”) categories 3907.60.10 and 3907.60.20, which are categories of PET in primary forms (such as chips) based on the PET’s intrinsic viscosity (“IV”). The DuPont Group asserts that HTS category 3907.60.10 covers PET with an IV of less than 0.64 dl/g, while HTS category 3907.60.20 covers PET with an IV between 0.64 and 0.72 dl/g. The DuPont Group argues that, in its May 27, 2008, Surrogate Value Submission (“5/27 SV Submission”) and July 30, 2008 Supplemental Surrogate Value Submission (“7/30 SV Submission”), it demonstrated that India utilizes the “ASTM” method for tariff classification purposes to verify the IV. The DuPont Group argues that it used original records and data to calculate the chips’ IV using the ASTM standard (contained in 5/27 SV Submission), and that all of the chips it used during the POI had IVs of less than 0.64 dl/g. Thus, the DuPont Group argues, the Department should only use Indian HTS category 3907.60.10 to value its PET chip factor of production (“FOP”).

Additionally, the DuPont Group argues that the Indian import statistics contained in HTS category 3907.60.20 during the POI include products that were not similar to PET chips, based on Infodrive India (“Infodrive”) data it put on the record. The DuPont Group argues that the Infodrive India data demonstrated that this HTS category contained “Voracor CR 935 Polyol,” which it asserts is a specialty chemical used in the manufacture of foam insulation and is chemically distinct from PET chips. Thus, the DuPont Group argues that the Department should not use this HTS category to value the PET chip FOP.

Alternatively, the DuPont Group argues that if the Department determines that HTS category 3907.60.20 is an appropriate category to value its PET chip FOP, it requests that the Department expand the time period for the WTA data to include three months prior to the POI, and the two months after the POI to include a more representative sample. Also, the DuPont Group argues that, if the Department chooses to utilize both HTS categories to value PET chips, the Department should employ a weighted-average of both categories, to avoid overstating the value of the PET chips, citing Hand Trucks and Certain Parts Thereof From the People’s Republic of China: Final Results of Administrative Review and Final Results of New Shipper Review, 72 FR 27287 (May 15, 2007) and accompanying Issues and Decision Memorandum at Comment 18.

Department’s Position:

Section 773(c)(1) of the Tariff Act of 1930, as amended (the “Act”), states that “the valuation of the factors of production shall be based on the best available information regarding the values of such factors. . . .” We find that the WTA data for HTS category 3907.60.20 are not the best available information to value any of the DuPont Group’s PET chip input.

Specifically, because PET chips are the DuPont Group’s main input to produce PET Film, and WTA import statistics for 3907.60.20 contain an insignificant quantity of imports (15 metric tons), we find that this quantity is not representative of the DuPont Group’s PET chips purchase volume or consumption experience. See the DuPont Group’s March 31, 2008, Supplemental Questionnaire Response at Exhibits 10-11 (Proprietary Version). Thus, we find the value derived from the

insignificant import quantity contained in HTS category 3907.60.20 to be unreliable for purposes of valuing the DuPont Group's PET chip input. Moreover, because the WTA data for HTS category contain only 15 metric tons of imports, we find the WTA data for 3907.60.10, which contain 1,600 metric tons of imports, to be more representative of the DuPont Group's experience purchasing PET chips, and thus, we find the value derived from HTS category 3907.60.10 to be the best available information for valuing this input. See, e.g., Magnesium Metal from the People's Republic of China: Final Results of Antidumping Duty Administrative Review, 73 FR 40293 (July 14, 2008) and accompanying Issues and Decision Memorandum at Comment 4.

Because the Department finds that the WTA data for HTS category 3907.60.20 are not the best available information due to the insignificant import quantity, we do not find it necessary to address the DuPont Group's argument regarding the recalculation of its PET chips' IV to the Indian "ASTM" method, the Infodrive India data the DuPont Group put on the record, or the option of weight-averaging the WTA data for the two HTS categories.

Comment 2: Surrogate Value for Paper Cores

In the preliminary determination, the Department used Indian import statistics for HTS category 4822.90.10, "Bobbins, Spools, Cops, and Similar Supports of Paper Pulp, Paper, or Paperboard (Whether or Not Perforated or Hardened); Other: Paper Tubes," and the surrogate value was 392.254 rupees per kilogram. The DuPont Group argues that this HTS category is a basket category, covering a range of products, most of which are small paper tubes and rollers, based on Infodrive India data the DuPont Group put on the record in its 5/27 SV Submission. The DuPont Group further asserts that small paper tubes and rollers have a low per-unit cost, but a corresponding high per-kilogram cost, while the larger items have a much lower per-kilogram cost.

The DuPont Group argues that because the cores it uses range between six and eight kilograms, and because of the relationship it established between per-unit and per-kilogram cost for paper tubes, it would be inappropriate for the Department to use import value data for paper tubes weighing between four and forty-six grams. Hence, the DuPont Group argues, the Department should use information from the Infodrive India data that is more similar in dimensions to the paper cores the DuPont Group uses, specifically a February 2007 shipment from Singapore of "paper tube{s}" with a dimension of 76.5 mm (inner diameter) x 1200 mm (length) x 92 mm (outer diameter) to value its paper core FOP. The DuPont Group asserts that this item had the highest per-unit value of all of the items contained in the Infodrive India data, and thus, would be a conservative estimate to value its paper core FOP. The DuPont Group proposes that the Department either apply the unit cost of the Singaporean core to the DuPont Group's cores or derive a per-kilogram core cost, based on the dimensions of the Singaporean core, asserting that either method would be more reasonable than using the WTA data from the preliminary determination.

Moreover, the DuPont Group asserts that in its 5/27 SV Submission, it provided Indian price quotes, Indonesian price quotes, and the core cost experience of DuPont Teijin Films U.S. for comparable items, which corroborate the reasonableness of using the Infodrive India data to value the DuPont Group's cores. The DuPont Group also argues that the Infodrive India data are publicly available, tax-exclusive, and contemporaneous with the POI, which satisfy the Department's criteria for selecting surrogate value sources.

Department's Position:

We find that the Infodrive data put on the record by the DuPont Group are incomplete and insufficient to demonstrate the unreliability of WTA data for purposes of valuing the paper core input. Regarding the DuPont Group's argument that the WTA data for HTS category 4822.90.10 represent a basket category containing items of multiple sizes that in turn distorts the per-kilogram price, we find that the Infodrive data on the record are not sufficiently complete in order to conclusively demonstrate this point. First, the Infodrive data are not complete because they do not include all exports from the United States to India that are listed in the WTA data. While the DuPont Group illustrated in its 5/27 SV Submission at Exhibit 9 that the WTA data and the Infodrive data correspond for Germany and Singapore, it did not illustrate that the imports from the United States in Infodrive data correspond to the WTA data. Examining the monthly WTA data for 4822.90.10 during the POI shows imports from the United States in April 2007 that are not in the Infodrive data. Additionally, the total POI value of imports from the United States listed in the Infodrive data (818,307.54 rupees) does not correspond to the total POI value of imports from the United States in the WTA data (1,843,000 rupees). The DuPont Group also contends that imports from Singapore listed in the Infodrive data correspond to the WTA data because the import values are the same. However, the February 2007 shipment in the Infodrive data is listed without a country of origin; therefore, we cannot conclusively determine whether, in fact, this shipment was from Singapore, based on the DuPont Group's assertion that the February 2007 shipment is similar in details to a shipment in December 2006 from the Infodrive data.

Additionally, we disagree with the DuPont Group's calculation of the "Relationship between Weight and Cost" in its case brief at page 9, which it calculated by dividing the kilograms reported in the WTA data by the number of pieces in the Infodrive data. While the three shipments used to calculate the weight per piece for "paper tubes" from Germany have roughly the same per-unit price, the DuPont Group is assuming that the types of paper rolls from Germany in the Infodrive data are the same type, despite the absence of dimensions or a weight in the Infodrive data. Moreover, the per-unit prices listed in the Infodrive data for the "paper rollers" from Denmark vary from 1.54 rupees to 9.78 rupees, but the DuPont Group is assuming that the shipments from Denmark are all the same size for purposes of determining the average weight per piece. Also, we find the DuPont Group's calculation of the weight of the "Singapore" "paper cores" to be unreliable, because, using a density factor to calculate the weight of the core, the DuPont Group calculated a weight of 1.872 kilograms in its case brief, and a weight of 3.7 kilograms in its 5/27 SV Submission for the same core from "Singapore." Because of this discrepancy in the calculation of the weight of this paper core, we cannot rely on the DuPont Group's assertion that the total weight of this "Singapore" shipment is 4,118.4 kilograms, which conflicts with the WTA data's quantity of 500 kilograms.

Because we find the Infodrive data to be incomplete and that the DuPont Group is making several assumptions that cannot be substantiated, we are rejecting the use of Infodrive data to evaluate the reliability of the WTA data. Moreover, the Infodrive data on the record for HTS category 4822.90.10 are not reported in a uniform manner, and thus, we find that this data is unreliable for purposes of calculating a surrogate value for paper cores. See, e.g., Laminated Woven Sacks from the People's Republic of China: Final Determination of Sales at Less Than Fair Value and Partial Affirmative Determination of Critical Circumstances, 73 FR 35646 (June 24, 2008) and

accompanying Issues and Decision Memorandum at Comment 2 (quoting Notice of Final Determination of Sales at Less Than Fair Value and Final Partial Affirmative Determination of Critical Circumstances: Diamond Sawblades and Parts Thereof from the People's Republic of China, 71 FR 29303 (May 22, 2006) (“Diamond Sawblades”) and accompanying Issues and Decision Memorandum at Comment 11D):

As explained in prior cases, the Department prefers not to use Infodrive data to derive surrogate values or to use as a benchmark to evaluate other potential surrogate values because it does not account for all of the imports which fall under a particular HTS subheading. See Notice of Final Determination of Sales at Less Than Fair Value: Chlorinated Isocyanurates From the People's Republic of China, 70 FR 24502 (May 10, 2005), and accompanying Issues and Decision Memorandum (“Chlorinated Isos Decision Memorandum”), at Comment 1 and Final Determination of Sales at Less Than Fair Value: Wooden Bedroom Furniture from the People's Republic of China, 69 FR 67313 (November 17, 2004), and accompanying Issues and Decision Memorandum, (“Bedroom Furniture Decision Memorandum”), at Comment 10. The Department has also determined that Infodrive India is unreliable because a majority of the HTS categories do not report the specific import items in a uniformly comparative manner (i.e., cans, bottles, pieces, sets, or numbers) from which we can calculate a reliable or accurate surrogate value. See Bedroom Furniture Decision Memorandum, at Comment 10. We note that this is not a problem with the WTA data because every HTS category is reported using a single uniform measurement (e.g., rupees per kilogram).

Regarding the price quotes that the DuPont Group put on the record to confirm the reasonableness of the values derived from the Infodrive data, we find that we cannot rely on the validity of the price quotes. Although the DuPont Group is not advocating that we use the price quotes that it placed on the record to value the paper cores, we note that the Department has rejected price quotes in the past, because we did not have enough information to determine whether such prices were self-selected,² or were representative enough of the industry to demonstrate the unreliability of the WTA data.

In valuing the factors of production (“FOP”), section 773(c)(1) of the Act instructs the Department to use “the best available information” from the appropriate market-economy country. The Department’s criteria for selecting surrogate value information are based on the use of publicly available information, and the Department considers several factors when choosing the most appropriate surrogate value, including the quality, specificity, and contemporaneity of the data. See, e.g., Notice of Final Determination of Sales at Less Than Fair Value, and Affirmative Critical Circumstances, In Part: Certain Lined Paper Products from the People's Republic of China, 71 FR 53079 (September 8, 2006), and accompanying Issues and Decision Memorandum at Comment 3. It is the Department’s practice to carefully consider the available evidence in light of the particular facts of each industry when undertaking its analysis of valuing the FOPs on a case-by-case basis. See Certain Preserved Mushrooms from the People's Republic of China: Final Results and Final Partial Rescission of the Sixth Administrative Review, 71 FR 40477 (July 17, 2006), and

² See, e.g., Polyvinyl Alcohol From the People's Republic of China: Final Results of Antidumping Duty Administrative Review, 71 FR 27991 (May 15, 2006) and accompanying Issues and Decision Memorandum at Comment 2.

accompanying Issues and Decision Memorandum at Comment 1. As there is no hierarchy for applying the above-mentioned principles, the Department must weigh available information with respect to each input value and make a product-specific and case-specific decision as to what the “best” surrogate value is for each input. While we acknowledge that HTS category 4822.90.10 is a basket category containing various sizes of paper tubes and rollers, we find that the DuPont Group has not provided sufficient evidence that the WTA data are unreliable for purposes of valuing its paper core input or that its paper core is not covered by this HTS category. Moreover, the POI weighted-average paper core value derived from the WTA data for HTS category 4822.90.10 represents the best estimation of what a producer of PET Film in India would pay for this input, because the WTA data encompass a range of sizes of paper tubes, rollers, and cores.

Because the WTA data are contemporaneous with the POI, are publicly available, and represent a broad market average, we find that they represent the best available information for purposes of valuing the paper core input. See, e.g., Certain Frozen Warmwater Shrimp From the People's Republic of China: Notice of Final Results and Rescission, in Part, of 2004/2006 Antidumping Duty Administrative and New Shipper Reviews, 72 FR 52049 (September 12, 2007) and accompanying Issues and Decision Memorandum at Comment 1 (“When selecting possible surrogate values for use in an NME proceeding, the Department's preference is to use surrogate values that are publicly available, broad market averages, contemporaneous with the POR, specific to the input in question, and exclusive of taxes on exports”).

Comment 3: Revisions to Financial Ratio Calculations

The DuPont Group argues that the Department should exclude the 2006-2007 financial statements of Garware Polyester Ltd. (“Garware”), because the Department found that Garware had a net subsidy rate of 10.37 percent, citing Polyethylene Terephthalate Film, Sheet, and Strip from India: Final Results of Countervailing Duty Administrative Review, 73 FR 7708 (February 11, 2008) (“PET Film CVD”). The DuPont Group argues that the Department has excluded financial statements in the financial ratio calculation due to subsidies, where other financial statements were available, citing Certain New Pneumatic Off-The-Road Tires from the People's Republic of China: Final Affirmative Determination of Sales at Less Than Fair Value and Partial Affirmative Determination of Critical Circumstances, 73 FR 40485 (July 15, 2008) (“Tires”) and accompanying Issues and Decision Memorandum at Comment 17A. The DuPont Group proposes that the Department use the 2006-2007 financial statements on the record of the investigation, including Ester Industries Ltd., (“Ester”), Jindal Poly Films Ltd. (“Jindal”), Polyplex Corporation Ltd. (“Polyplex”) and Uflex Ltd. (“Uflex”), to calculate the surrogate financial ratios.

Next, the DuPont Group argues that the Department should adjust Polyplex’s and Uflex’s (and subject to above, Garware’s) materials, labor, and energy (“MLE”) costs for changes in work-in-progress inventories, citing Polyethylene Retail Carrier Bags from the People's Republic of China: Final Results of Antidumping Duty Administrative Review and Partial Rescission of Review, 73 FR 14216 (March 17, 2008) (“2008 Bags”) and accompanying Issues and Decision Memorandum at Comment 3. In addition, the DuPont Group asserts that it is the Department’s practice to include

“job work charges” in MLE,³ and for the final, the Department should make these adjustments to the financial ratio calculations of Jindal and Uflex. Also, the DuPont Group asserts that the Department should adjust UFlex’s financial ratios for costs related to the self-production of assets.

Additionally, the DuPont Group argues that the Department should adjust Jindal’s (and subject to above, Garware’s) financial ratios for insurance proceeds, citing Notice of Final Determination of Sales at Less Than Fair Value and Negative Final Determination of Critical Circumstances: Certain Color Television Receivers From the People’s Republic of China, 69 FR 20594 (April 16, 2004) (“Color TVs”) and accompanying Issues and Decision Memorandum at Comment 18. The DuPont Group also argues that the Department should offset selling, general, and administrative (“SGA”) expense calculations by certain income items, citing Color TVs at Comment 18 and Tires at Comment 18.A. and 18.B. The DuPont Group asserts that the following income items should offset the surrogate financial statements’ SGA expenses: 1) profit on sale of assets (Jindal and Garware); 2) interest income (Jindal, Uflex, and Garware); 3) exchange rate gains and losses (Jindal, Uflex, and Garware); 4) miscellaneous income (Jindal, Polyplex, and Garware); 5) changes to estimated future losses (Polyplex and Garware); and 6) housing rental income (Jindal, Polyplex, and Garware).

The DuPont Group also contends that it is the Department’s practice to exclude traded goods from the denominator of the overhead ratio but to include traded goods in the SG&A and profit ratios, citing Helical Spring Lock Washers From the People’s Republic of China: Final Results of Antidumping Duty Administrative Review, 73 FR 4175 (January 24, 2008) and accompanying Issues and Decision Memorandum at Comment 6. The DuPont Group argues that if the ending period finished goods inventories are less than the beginning finished goods inventories, then the cost of sales includes the cost of inventories that were sold. Thus, DuPont Group argues, the Department should treat changes in finished goods inventories as it does other “traded goods,” and apply the adjustment to Jindal, Polyplex (and subject to above, Garware).

Finally, the DuPont Group contends that the Department’s practice is to exclude from the SGA ratio certain items that are separately deducted from the U.S. selling price that is compared to normal value, citing Tires at Comment 18.C. The DuPont Group argues that because all of its sales were made on a constructed export price (“CEP”) basis, and all selling expenses are deducted from the U.S. price, the Department should exclude those expenses from the SGA ratio calculation for Polyplex, Uflex (and subject to above, Garware).

Department’s Position:

As we stated in Tires at Comment 17.A, it is the Department’s practice to disregard financial statements where we have reason to suspect that the company has received actionable subsidies, where there is other usable data on the record. Specifically, we stated,

{s}ection 351.408(c)(4) of the Department’s regulations further stipulates that the Department normally will value manufacturing overhead, SG&A expenses and profit using

³ See Wooden Bedroom Furniture from the People’s Republic of China: Final Results of the 2004-2005 Semi-Annual New Shipper Reviews, 71 FR 70739 (December 6, 2006) (“Furniture 12/6/06”) and accompanying Issues and Decision Memorandum at Comment 9.

“non-proprietary information gathered from producers of identical or comparable merchandise in the surrogate country.” In complying with the statute and the regulations, the Department calculates the financial ratios based on contemporaneous financial statements of companies producing comparable merchandise from the surrogate country, some of which may contain evidence of subsidization. However, where the Department has a reason to believe or suspect that the company producing comparable merchandise may have received actionable subsidies, it may consider that the financial ratios derived from that company’s financial statements are less representative of the financial experience of the relevant industry than the ratios derived from financial statements that do not contain evidence of subsidization. Consequently, the Department does not rely on financial statements where there is evidence that the company received countervailable subsidies and there are other sufficient reliable and representative data on the record for purposes of calculating the surrogate financial ratios.

See Tires at Comment 17.A.

Additionally, as we stated in Tires at Comment 17.A, the Department has used financial statements with some evidence of subsidies when the circumstances of the particular case warranted. In particular, we stated,

{t}he Department also has previously accepted the financial statement of a surrogate producer (Pidilite) which contained evidence that the company received a subsidy that the Department had found to be countervailable.⁴ However, in that case the only other reliable alternative was Reserve Bank of India data, which was not industry-specific and comprised two sets of data, one based on 997 selected public limited companies based in India and the other based on 2,204 selected public limited companies based in India.⁵ Consequently, the Department found, in that case, that the financial ratios of Pidilite, a producer of identical merchandise, represented the best available information on the record in comparison to the extremely broad-based data from the Reserve Bank of India. See {Notice of Final Determination of Sales at Less Than Fair Value: Carbazole Violet Pigment 23 from the People's Republic of China, 69 FR 67304 (November 17, 2004) and accompanying Issues and Decision Memorandum} at Comment 1.

See Tires at Comment 17.A.

While we agree with the DuPont Group that the Department found that Garware received subsidies in PET Film CVD, the Department has found that all four of the financial statements used in the PET Film Prelim to calculate the surrogate financial ratios show evidence of subsidies in their

⁴ See Final Affirmative Countervailing Duty Determination: Carbazole Violet Pigment 23 From India, 69 FR 67321 (November 17, 2004) and accompanying Issues and Decision Memorandum at Comment IV.A.1.b.

⁵ See Notice of Final Determination of Sales at Less Than Fair Value: Carbazole Violet Pigment 23 From India, 69 FR 67306 (November 17, 2004) and accompanying Issues and Decision Memorandum at Comment 1(summary of parties comments).

financial statements. The 2006-2007 annual reports for Garware and Polyplex⁶ both show evidence of participation in the Duty Entitlement Pass Book (“DEPB”) scheme at pages 46 and 58, respectively, while both the 2006-2007 annual reports of Jindal and Uflex⁷ show evidence of participation in the Export Promotion Capital Goods Scheme (“EPCG”) at pages 36 and 43, respectively, which have both been found by the Department to be countervailable subsidies.⁸ Thus, because the financial statements of Garware, Jindal, Uflex, and Polyplex all contain evidence of subsidies in their financial statements that the Department has found to be countervailable, and given that there are no other financial statements on the record of this investigation,⁹ we find that using these financial statements to calculate the surrogate financial ratios to be the best available information, in accordance with section 773(c)(1) of the Act (“...the valuation of the factors of production shall be based on the best available information regarding the values of such factors in a market economy country. . .”).

Additionally, the Department inadvertently did not make the correct adjustments to MLE in the PET Film Prelim for changes in work-in-progress inventories and job-work charges and will adjust MLE for works-in-progress (see, e.g., 2008 Bags at Comment 3), and job-work charges (see, e.g., Furniture 12/6/06 at Comment 9) for the final determination. Specifically, the Department will adjust MLE for Garware, Polyplex, and Uflex with respect to work-in-progress inventory changes. Also, the Department will adjust MLE for Jindal and Uflex’s job-work charges, because they are listed under “Manufacturing Expenses” and represent direct production labor. We also agree with the DuPont Group that we should offset financial ratios by the expenses related to the self-construction of assets in Uflex’s financial statements, and we will adjust MLE, overhead, and SGA accordingly. These costs are not costs of sales, but would be reflected in depreciation expense in current and future periods, and thus should be subtracted from the ratios.

We also agree that we should offset the insurance premiums by the proceeds from the insurance. We find that the insurance premium offset is similar to offsetting the ratios by “miscellaneous income.” As we stated in Tires at Comment 18.B, “Because we cannot go behind the financial statements to determine the appropriateness of including this item in the financial ratio calculations, we looked to information in {the} financial statement to determine the possible nature of the activity generating the miscellaneous income to see if a relationship exists between the activity and the general operations of the company.” Because we have found no information in the financial

⁶ See Memorandum to the File through Scot T. Fullerton, Program Manager, AD/CVD Operations, Office 9, from Erin Begnal, Senior International Trade Analyst, AD/CVD Operations, Office 9, regarding “Antidumping Duty Investigation of Polyethylene Terephthalate Film, Sheet, and Strip from the People’s Republic of China: Selection of Factor Values,” dated April 25, 2008 at Exhibit 5.

⁷ Id.

⁸ See, e.g., PET Film CVD and accompanying Issues and Decision Memorandum at “III. Analysis of Programs - A. Programs Determined to be Countervailable”

⁹ While the DuPont Group asserts that the Department should use the financial statements of Ester, the Department notes that while the calculation of Ester’s financial ratios are contained in the 5/27 SV Submission, the actual financial statements are not on the record of the investigation. Moreover, the calculation of Ester’s financial ratios contained in the 5/27 SV submission show a zero profit, and the Department’s practice is not to use the financial statements of companies showing zero profit. See, e.g., 2004/2006 Shrimp at Comment 2.

statements to indicate that the insurance proceeds are not related to the general operations of the company, we have for Garware, offset both overhead and SGA for the “surrender value of keyman insurance” based on where these proceeds are categorized in the financial statements and offset SGA by “income-insurance claims.” Additionally, for Jindal, we have offset SGA by “other-income – claims received.” We have also adjusted the SGA ratios by miscellaneous income, and by housing rental income, pursuant to Tires at Comments 18.A and 18.B. Again, because we have found no information in the financial statements to indicate that the miscellaneous income and housing rental income are not related to the general operations of the company, we have offset the SGA ratios for these income items for Garware, Jindal, Uflex, and Polyplex.

As we stated in Tires at Comment 18.D, the Department will “reduce interest and financial expenses by amounts for interest income only to the extent it can determine from those statements that the interest income was short-term in nature.” Thus, for Garware we have offset SGA by interest income because we are able to discern that the interest revenue is short-term in nature (i.e., “Interest on short term deposits with banks and others”). For Jindal, we are unable to determine from its financial statements whether the “Interest Received” is on short-term instruments, thus, we are not offsetting its SGA ratio by the interest income. For Uflex, because the majority of Uflex’s activity in its “Cash and Bank Balances” is in fixed deposit accounts, we do not find that the interest income received is short-term in nature, and we have not made an offset to SGA for interest income.

For profit on sales of assets, we have adjusted the SGA ratio for Garware and Jindal. See, e.g., Chlorinated Isocyanurates from the People’s Republic of China: Final Results of Antidumping Duty Administrative Review, 73 FR 159 (January 2, 2008) and accompanying Issues and Decision Memorandum at Comment 12, citing Notice of Final Results of Antidumping Duty Administrative Review: Certain Softwood Lumber Products From Canada, 70 FR 73437 (December 12, 2005) accompanying Issues and Decision Memorandum at Comment 8 (“the gains or losses on the routine disposal or sale of assets of this type relate to the general operations of the company as a whole because they result from activities that occurred to support on-going production operations.”).

For exchange rate fluctuations, it is the Department’s practice to offset financial expenses with gains resulting from foreign exchange fluctuations. See, e.g., Polyethylene Retail Carrier Bags from the People’s Republic of China: Final Results of Antidumping Duty Administrative Review, 72 FR 12762 (March 19, 2007) and accompanying Issues and Decision Memorandum at Comment 3.k. Thus, we will offset SGA by the exchange rate gains for Garware, Jindal, and Uflex. For changes to estimated future losses, because we are unable to tell whether the income related to excess provisions written back relates to estimated losses in the current period or the prior period, consistent with past practice, we will not offset SGA by income related to excess provisions written back. See, e.g., Folding Metal Tables and Chairs from the People’s Republic of China: Final Results of Antidumping Duty Administrative Review, 71 FR 2905 (January 18, 2006) and accompanying Issues and Decision Memorandum at Comment 1.A.

With respect to the inclusion of changes in finished goods inventory in the denominator for the SGA and profit ratios, we agree with the DuPont Group that we should include the finished goods inventory balance in the denominator of SGA and profit. It is logical to use the cost of sales amount as the denominator in calculating the SGA ratio because SGA expenses are incurred for those products sold during a period that were manufactured in the current as well as prior periods. See,

e.g., Ball Bearings and Parts Thereof From France, Germany, Italy, Japan, and the United Kingdom: Final Results of Antidumping Duty Administrative Reviews, 67 FR 55780 (August 30, 2002) and accompanying Issues and Decision Memorandum at Comment 35. For the final determination, we will adjust the denominator for SGA and profit for Garware, Jindal, Polyplex, and Uflex by adding the beginning finished goods inventory balance to the denominator, while subtracting the ending finished goods inventory balance from the denominator.

Finally, we agree with the DuPont Group that we should exclude certain selling expenses from the SGA ratios because we have accounted for these selling expenses elsewhere in the margin calculation, as the DuPont Group reported all of its sales on a CEP basis. Therefore, consistent with Tires at Comment 18.C, we have removed “advertisement expense” from Garware’s ratio calculation, “advertisement” and “sales promotion” from Polyplex’s ratios, and “advertisement and publicity” from Uflex’s ratios.

RECOMMENDATION:

Based on our analysis of the comments received, we recommend adopting all of the above changes and positions, and adjusting the margin calculation program accordingly. If accepted, we will publish the final determination of this investigation and the final weighted-average dumping margins in the Federal Register.

AGREE_____

DISAGREE_____

David M. Spooner
Assistant Secretary
for Import Administration

Date